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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/006,231	12/10/2001	Ming-Jen Huang	HUAN3102/EM	9937
23364	7590	10/24/2003	EXAMINER	
BACON & THOMAS, PLLC 625 SLATERS LANE FOURTH FLOOR ALEXANDRIA, VA 22314			KOPPIKAR, VIVEK D	
		ART UNIT		PAPER NUMBER
				1775

DATE MAILED: 10/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/006,231	HUANG, MING-JEN
	Examiner Vivek D Koppikar	Art Unit 1775

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 8/11/03.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 14-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 14,20,22 and 24 is/are rejected.
- 7) Claim(s) 15-19,21 and 23 is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 10 December 2001 is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) The translation of the foreign language provisional application has been received.
- 15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ . |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ . | 6) <input type="checkbox"/> Other: _____ |

FINAL OFFICE ACTION

Claim Objections

1. Claim 17 is objected to because of the following informalities: The phrase “wherein a colloid material is coated to the wax decoration item” is unclear. The examiner recommends changing this phrase to read “wherein a colloid material is coated onto the outer peripheral surface of the wax decoration item.” There is basis for this suggested phrase in paragraph [004], step 5 of the amended specification.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 14, 20 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Number 3,560,122 to Cassar in view of JP 02-038449 to Kazuo (hereafter referred to as JP'449)

With regard to Claim 14, Cassar teaches a wax decoration item (a candle) that is made of a mixture paraffin (white wax) and polyethylene wax (Col. 2, Ln. 1-9).

Cassar does not teach that the wax mixture comprises a cyanide polymer. However, JP'449 teaches a resin composition made up in part of polyethylene waxes. The resin composition includes a cyanide monomer in order to increase the antistatic properties of the resin (Translated Abstract). Therefore at the time of the invention, one of ordinary skill in the art

would have been motivated to add cyanide to the wax mixture of Cassar with the expectation of increasing the antistatic properties of the wax emulsion.

With regard to Claim 20, in Cassar the wax mixture includes palygorskite (an inorganic compound) (Col. 2, Ln. 49-50).

With regard to Claim 24, the wax composition comprises a wick (Col. 2, Ln. 6-8).

4. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over Cassar in view of JP'449 as applied to claim 14 above, and further in view of US Patent Number 5,246,603 to Tsaur.

Cassar and JP'449 fail to teach adding fragrance to the wax compositions.

Tsaur teaches a wax mixture with fragrance oil that forms an emulsified mixture (Col. 7, Ln. 1-17). Therefore at the time of the invention one of ordinary skill in the art would have added fragrance oil to the wax mixture (colloid) of Cassar in view of JP'449 with the expectation of providing a fragrance to the wax mixture and increasing its emulsification characteristics.

Response to Arguments

5. The 35 USC 112, 1st paragraph rejection set forth in the Office Action dated April 10, 2003 has been overcome by the amendment to the specification and the claims which was filed on August 11, 2003.

6. Applicant's arguments filed on August 11, 2003 with respect to the 35 USC 103 rejections of Claims 14, 20, 22 and 24 have been fully considered but they are not persuasive.

Applicants argue that the Cassar reference used in the 35 USC 103 rejection does not teach a wax decoration.

However claim 14 only claims a mixture of polyethylene wax, cyanide polymer and paraffin white wax. The term “decorative” is arbitrary and the examiner takes the position that the candle of Cassar can also be considered to be a decorative item.

With regard to JP'449 applicants suggest there is no motivation to combine Cassar with JP'449. However the applicants do not argue against the motivation given in the Office Action or show unexpected results, at least one of which is needed to overcome the 35 USC 103 rejection.

With regard to Claims 20, 22 and 24 the applicants do not provide additional arguments why these limitations are allowable over the prior art used in the rejections.

Allowable Subject Matter

7. Claims 15-19, 21, and 23 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

With regard to Claims 15-16, Cassar and JP'449 do not teach the weight ratios between the wax components as claimed.

With regard to Claim 17-19, 21 and 23, Cassar and JP'449 do not teach an outer colloid layer which is coated on a wax decoration item wherein the wax comprises polyethylene wax, cyanide polymer and paraffin wax. In addition US Patent Number 3,565,819 to Gragger teaches a hydrophilic colloidal material coated on the outer surface of the oily core. However, in Gragger, a wax wall is present on the outer surface of the colloidal material rather than on the inside of the colloidal material, which is a reverse structural relationship of the instant invention.

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Vivek Koppikar** whose telephone number is **(703) 305-6618**. The examiner can normally be reached on Monday-Friday from 8 AM to 5 PM, Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Deborah Jones, can be reached at (703) 308-3822. The fax phone numbers for the organization where this application or proceeding are assigned are (703) 305-7718 for regular communications and (703) 305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Vivek Koppikar
Vivek Koppikar
10/17/03

Deborah Jones
DEBORAH JONES
SUPERVISORY PATENT EXAMINER